IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.170 OF 2006

Maharashtra State Road
Transport Corporation ...Appellant
Vs.
Ashok G.Bombale & Ors. ...Respondents

Mr.C.M.Lokesh i/b Mr.G.S.Hegde for the Appellant
None for the Respondents.

CORAM: A.S.OKA, J.
DATED: MARCH 29,2006.

P.C.:

1. Heard the learned Advocate for the Appellant-Maharashtra State Road Transport Corporation. The challenge in this Appeal is to the impugned Judgment and Award dated 5th May 2000. By the said Award it was held that the respondent No.1-original claimant suffered injury on account of the negligence on the part of the driver of the bus owned by the Appellant. As a result of the injury sustained in the accident, the right forearm of the Respondent No.1 was required to be amputed. The Respondent No.1 is an agricultural labourer. His permanent disability was assessed at 75%. The Tribunal held that since the Respondent No.1 was an agricultural labourer, as a result of amputation of his right forearm, he is prevented from earning anything. Thus, the compensation of Rs.1,00,000/- has been awarded.

2. The submission of the learned Advocate for the Appellant is that the respondent No.1 was travelling in a cabin of a

truck and the accident occurred due to contributory negligence on the part of the driver of the truck. He submitted that the driver of the truck was prosecuted and not the driver of the bus owned by the Appellant.

3. The learned Member of the Tribunal has observed that the respondent No.1-claimant is an eye witness to the accident who was sitting in the cabin of the truck. The learned Judge relied upon the certified copy of the spot panchnama which was proved by the claimant by examining one of the witnesses to the panchnama. After considering the contents of the panchnama, the learned Member of the Tribunal accepted the case made out by the Respondent No.1 that the bus was in a very high speed as a result of which the driver could not control the bus which gave a dash to the incoming truck. After considering the panchnama which was duly proved and the version of the respondent No.1 who is the eye witness, the learned Member has recorded the finding that the driver of the bus was negligent. It is very difficult to find fault with the said finding.

4. As the respondent no.1 is an agricultural labourer, the result of amputation of right forearm is complete loss of his earning capacity. The multiplier of 8 has been applied by the Tribunal by taking monthly income of the Respondent No.1 at Rs.1000/-. The compensation awarded appears to be just

and reasonable.

5. It must be noted here that the Award is made on 5th May 2000. Though the Appeal is filed in the year 2000, it was numbered in the year 2006. Till today there is no stay granted by this Court to the execution of the impugned Award.

6. Considering the peculiar facts and circumstances of the case, no case is made out for interference. Appeal is dismissed with no order as to costs.

Judge.